

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

IV SHELLEY, JR.,

Defendant.

CASE NO. 8:04CR513

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) in this case. See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 27.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Addendum refers to an objection by the Defendant to the conviction in ¶ 36. Because no objections were filed pursuant to ¶ 6 of the Order on Sentencing Schedule, and because, even if successful, the sentencing guideline range would be unaffected, the Court declines to address this objection further.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the Revised Presentence Investigation Report is correct in all respects;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 9th day of May, 2005.

BY THE COURT:

s/Laurie Smith Camp
Laurie Smith Camp
United States District Judge